

**REMARKS**

This Amendment and Request for Reconsideration is submitted in response to an outstanding Office Action dated November 28, 2007, the shortened statutory period for response set to expire on February 28, 2008 . Accordingly this response is timely and no extension of time is believed due. However, in the event that the Commissioner determines an extension of time is required, the undersigned petitions for any required extension of time and authorizes the Commissioner to charge any required fee to the Milbank deposit account 13-3250.

I. Status of the Claims

Please amend claims 1, 11, and 14 - 25 as indicated above. Claims 1-25 are now pending in the application. Claims 1, and 17 - 25 are independent claims.

Applicants acknowledge the Examiner's citation of statutory authority as a basis for claim rejections.

II. Rejections under 35 U.S.C. § 103

The Examiner has rejected independent claims 1, 18 and 20-22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2004/0199449 to Rudkin ("*Rudkin*") in view of U.S. Patent Publication No. 2006/0155621 to Bell ("*Bell*"), and further in view of U.S. Patent Publication No. 2002/0198804 to Calvin ("*Calvin*"). Dependent claims 2, 3, 5-7, 9-11, 15, and 16 are rejected over those same references. Dependent claim 4 is rejected under 35 U.S.C. § 103(a) as unpatentable over *Rudkin*, *Bell*, and *Calvin* and further in view of U.S. Patent Publication No. 2002/0116310 to Cohen et al. ("*Cohen*"). Dependent claim 8 is rejected under 35 U.S.C. § 103(a) as unpatentable over *Rudkin*, *Bell*, and *Calvin* and further in view of U.S. Patent Publication No. 2002/0010663 to Muller ("*Muller*"), U.S. Patent Publication No. 2002/0133456 to Lancaster et al. ("*Lancaster*") and U.S. Patent Publication No.

2005/0004854 to Jones et al ("*Jones*"). Dependent claims 12-14 are rejected under 35 U.S.C. § 103(a) as unpatentable over *Rudkin, Bell, and Calvin* and further in view of U.S. Patent Publication No. 2002/0194136 to Sullivan et al. ("*Sullivan*").

The Examiner has also rejected independent claims 17, 19, 23, 24 and 25 as being unpatentable over *Rudkin* in view of *Cohen, Muller*, U.S. Patent Publication No. 2002/0042771 to Shields ("*Shields*"), *Lancaster, Jones* and further in view of *Calvin*.

Regarding independent claim 1, which recites a method for transfer of employee stock options without exercise of the stock options, the method comprising, providing a plurality of option value prices; determining a stock trading price corresponding to a particular one of the plurality of option value prices; receiving an employee stock option corresponding to the particular one of the plurality of option value prices without exercising the employee stock option; providing a value corresponding to the particular one of the plurality of option value prices in exchange for receiving the employee stock option; amending the employee stock option without exercising the employee stock option; transferring the amended stock option to a third party without exercising the amended stock option; and receiving a value corresponding to the amended stock option in exchange for transferring the amended stock option.

It is clear in original claim 1, and in claim 1 as it is amended, that the recited steps in the method occur without exercise of the original employee stock option, or exercise of the amended stock option. This is one of the central features of the presently claimed inventions and it is not disclosed by any of the cited references. In the cited references, where there is any transfer of the employee stock option, the transfer is in conjunction with initial issue (which is not actually a transfer) or exercise of the stock option. None of the references individually or in combination disclose transfers of the employee stock options without exercise, in combination

with all of the other factors in the claim.

*Rudkin*, which the Examiner relies on for disclosure of transfer of ESOs, describes valuation techniques for employee stock options, but actually teaches away from the claimed invention because it describes precisely one of the types of problems in lack of transferability for ESOs that is solved by the present invention. Following a heading titled “Non-transferrability”, *Rudkin* at ¶ 0012 states (emphasis):

ESOs cannot be traded. Hence, there is no market price for them and the only way for employees to obtain value to meet liquidity requirements or to attempt to diversify their portfolio is to exercise them. However, the value the employee receives from exercising an ESO is the ESO’s intrinsic value (i.e., stock price minus the ESO’s strike price) instead of a market price that would equal the sum of the ESO’s intrinsic value and its time value (i.e., the value associated with the possibility of future stock price increases). In addition, employees, unlike outside investors are generally unable to hedge the risk the option will decrease in value and are typically poorly diversified. For these reasons, employees will tend to place a lower value on ESOs and tend to exercise them earlier than would an outside investor. The net result is that ESOs will tend to be less costly to the company and worth less to employees than predicted by the Black-Scholes model.

Therefore, the Examiner’s reliance on *Rudkin* for a transfer of the ESO, without exercise of the ESO, is mis-placed. None of the other references cited by the Examiner provides that missing and essential element of independent claim 1. At least for that reason, Applicants request withdrawal of the rejection of independent claim 1 over the cited references of *Rudkin*, *Bell* and *Calvin*. Claims 2-16 depend directly or indirectly from independent claim 1 and include all of the limitations of claim 1 and are therefore allowable for the same reasons. Independent claims 18, 20, 21 and 22 have limitations similar to independent claim 1, and *Rudkin*, *Bell* and *Calvin* do not individually or in combination disclose all of those limitations. Withdrawal of the rejection as to claims 1-16, 18, 20, 21 and 22 over *Rudkin*, *Bell* and *Calvin* is respectfully requested.

Regarding independent claim 17, which recites a method for transfer of employee

stock options without exercise of the stock options, the method comprising, using an option pricing formula to provide a plurality of option value prices arranged in an option-price grid; determining an average stock trading price over a predetermined period of time, the average stock trading price corresponding to a particular one of the plurality of option value prices; receiving an employee stock option from an employee without exercise of the employee stock option, the employee stock option corresponding to the particular one of the plurality of option value prices; in exchange for receiving the employee stock option, providing a first value, a second value and an investment value to the employee, the first and second values corresponding to the particular one of the plurality of option value prices, the first value provided to the employee at a first time, the second value and the investment value provided to the employee at a second time; amending the employee stock option, without exercise, to modify: terms of the maturity; terms of the number of shares per option; terms of the dilution protection; or terms of the dividend protection; transferring the amended stock option to a third party without exercising the amended stock option; and receiving a value from the third party in exchange for transfer of the amended stock option.

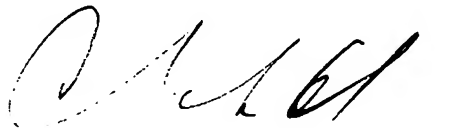
As with claim 1, it is clear in original claim 17 and in claim 17 as it is amended, that the recited steps in the method occur without exercise of the original employee stock option, or exercise of the amended stock option. As discussed above, this is one of the central features of the presently claimed inventions and it is not disclosed by any of the cited references. In the cited references, where there is any transfer of the employee stock option, the transfer is in conjunction with initial issue (which is not actually a transfer) or exercise of the stock option. None of the references individually or in combination disclose transfers of the employee stock options without exercise.

Because in rejecting claim 17 the Examiner relies on *Rudkin* for transfer of the ESO, and *Rudkin* does not disclose transfer without exercise, and actually teaches away from the invention of claim 17, Applicants respectfully request withdrawal of the rejection of independent claim 17. Independent claims 19, 23, 24 and 25 have limitations that are substantially similar to independent claim 17 and are allowable over the cited references for the same reasons.

III. Request for Reconsideration

Applicants respectfully submit that the claims of this application are in condition for allowance. Accordingly, reconsideration of the rejection and allowance is requested. If a conference would assist in placing this application in better condition for allowance, the undersigned would appreciate a telephone call at the number indicated.

Respectfully submitted,  
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